ing that it is a terrible hardship to punish an innocent corporation for the wickedness of its agents and servants, will for a moment reflect upon the absurdity of their own thoughts, their anxiety will be cured. Careful engineers can be selected who will not run their trains into open draws; and careful baggage-men can be secured who will not handle and smash trunks and bandboxes, as is now the universal custom; and conductors and brakemen can be had who will not assault and insult passengers; and if the courts will only let the verdicts of upright and intelligent juries alone, and let the doctrine of exemplary damages have its legitimate influence, we predict these great and growing evils will be very much lessened, if not entirely cured. There is but one vulnerable point about these existences called corporations, — and that is, the pocket of the moneyed power that is concealed behind them; and if that is reached, they will wince." This learned judge, who would put an end to all the evils of mankind with the noble weapon of exemplary damages, is conclusively answered in the careful and convincing opinion of Mr. Justice Gray in the principal case. A passenger on the Lake Shore Road, who had been inexcusably maltreated, but not physically injured, by the conductor of the train on which he was travelling, brought an action against the corporation in the Circuit Court, claiming exemplary damages. There was no pretence that the conductor was known to his employers as an unsuitable person for his position, or that they countenanced or approved his acts in any way. The jury were nevertheless charged that they might give punitive damages, and the plaintiff obtained the enormous verdict of $10,000. This sum was subsequently reduced to $6,000, on the plaintiff's motion. The defendant then sued out its writ of error. Mr. Justice Gray reviews the authorities with much care, pointing out that exemplary damages are given, "not by way of compensation to the sufferer, but by way of punishment to the offender," and that therefore an individual principal cannot be held liable for exemplary damages "merely by reason of wanton, oppressive, and malicious intent on the part of the agent." "The rule," he continues, "has the same application to corporations as to individuals. This court has often, in cases of this class, as well as in other cases, affirmed the doctrine that for acts done by the agents of a corporation, in the course of its business and of their employment, the corporation is responsible in the same manner and to the same extent as an individual is responsible under similar circumstances." This position seems impregnable.

Libellous Matter. — Another decision has been added to the already perplexing mass of authority on defamation. In *Buckstaff* v. *Viall*, 54 N. W. Rep. 111, the complaint alleges that the defendant, who was the sole owner and publisher of the "Oshkosh Times," maliciously published an editorial on the plaintiff, who was State senator from the senatorial district of which Oshkosh was the natural centre, to the following effect. He is addressed as "Divine Senator," "Mighty Being," "Omnipotence," — appellations which on their face might impute divinity and its consequent virtues, but which also "may mean," as the court says, "that he is vain, self-conceited, pompous, self-aggrandizing, and assumes a despotic and god-like character above his constituents and all other men." Further, he is called "Senator Bucksniff," "His Majesty Bucksniff," "Dearly beloved Bucksniff;" and this recurring epithet of "Bucksniff," while the plaintiff's name was Buckstaff, seems to be the gravamen of the charge.

A demurrer to this complaint, on the ground that it did not state a cause of action, was overruled; and from this ruling the defendant appeals. The chief grounds of the demurrer are two: (1) That the article is not libellous; (2) That it is privileged.

As to (1) the court, in referring to the epithet of "Bucksniff," very properly says: "It is a nickname which is a name of reproach, and an opprobrious appellation, and is in the similitude of 'Pecksniff,' one of the familiar and most contemptible characters in Dickens;" and holds that this literary allusion and accusation of divinity are *prima facie* libellous. This view is undoubtedly right, both on principle and authority. Even if the charges are somewhat novel, they are ample to subject the plaintiff to one or more of the indignities of "shame, disgrace, hatred, scorn, ridicule, and contempt," to all of which indignities the court declares the charges subjected him.

Point (2) need scarcely concern us; for even if the communication were privileged, and the occasion not overstepped, yet malice, which is here charged, is a sufficient replication to privilege.

RIGHTS OF ACCESS TO UNDERLYING STRATA OF THE EARTH'S SURFACE. — A very pretty question of first impression has been raised in Pennsylvania in the recent case of *Chartiers Block Coal Co.* v. *Mellon*, 25 Atl. Rep. 597, and on these facts. The defendant landowner granted to the plaintiff by the same form of grant as he would convey the fee of land all the coal under his land, and the mining rights and privileges, reserving no rights in the coal, nor ways to or through the coal. In Pennsylvania this passes to the plaintiff, not a profit, a mere right to go on and take, but the full title to a subterranean estate in land of certain depth, — an estate in land of as high a legal degree as the grantor's remaining fee, which remainder happens in the order of nature to be both above and below his (*Lillibridge* v. *Coal Co.*, 143 Penn. St. 293; cf. *Eardley* v. *Granville*, L. R. 3 Ch. Div. 826). This land proves to be in the oil region, and the grantor proceeds to sink wells through the plaintiff's slice of land. Now, is the grantor trespassing on the grantee's land, or must he have this right of access to the lower levels of his fee? For observe, he reserves no such easements. The facts, it will be seen, are almost perfect.

It will be agreed on all hands that he must have this access; the necessities of the case demand it. Then the interesting inquiry is, What kind of a right is it?

It was suggested by the judge below that the right of access was a way of necessity, and in one opinion on the appeal that it was a natural right. The latter said: "I would lay down the broad proposition that the several layers or *strata* composing the earth's crust are by virtue of their order and arrangement subject to reciprocal servitudes; and as these are imposed by the laws of nature, and are indispensable to the preservation and enjoyment of the several layers or *strata* to and from which they are due, the courts should recognize and enforce them;" and "the necessity for access results from the work of nature just as truly as the necessity for support."

Of course this right is allowed by the necessities of the situation, and it is in a certain sense a way, — at least it is a means of access, — and so may be not inaptly called a way of necessity. Moreover, in this case,